

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK  
PLANNING BOARD  
REGULAR MEETING  
FEBRUARY 19, 2009**

A **Regular Meeting** and was held by the Planning Board on **Thursday, February 19, 2009 at 8:15 p.m.** in the Municipal Building Meeting Room, 7 Maple Avenue, Hastings-on-Hudson, New York, 10706.

**PRESENT:** Chairperson Patricia Speranza, Boardmembers William Logan, Fred Wertz, Jamie Cameron, Eva Alligood, Bruce Dale, Ed Dandridge (8:30 p.m.), Village Attorney Marianne Stecich, and Village Planner Angela Witkowski.

**I. Roll Call**

**II. Approval of Minutes: January 15, 2009 meeting**

**Chairperson Speranza:** Questions, comments, motions?

**Boardmember Dale:** I had a tiny change. On page 5, towards the bottom, where I'm speaking, I say: "*Except for other location approved by the Planning Board, which may very well have a charge because there's a meter...*" The change is: . . . I think it should just say "*. . .at the lot, without charge.*"

**Village Planner Witkowski:** Which page was that, Bruce?

**Boardmember Dale:** Five, on the bottom. Just add the word "*should.*": "*It 'should' just say . . .*"

**Village Planner Witkowski:** Okay. It "*should be available*"?

**Boardmember Dale:** No, it should just say: "*I think it 'should' just . . .*" What is written is: "*I think it 'just' say.*" You have to add the word "*should.*"

**Chairperson Speranza:** I can show you where it is, Angela.

**Village Planner Witkowski:** I found it.

**Boardmember Alligood:** I had a couple. Page 24, at the very bottom, where I'm speaking, the second line, it says: "*Head of the. . .*" it's not "*PRAP.*" They used the acronym "*PRAP*" there. It's Pratt, P-R-A-T-T.

Then another two more lines down, about midway in the paragraph, where it says "*crosstalk*" in the parentheses, just add; "*. . . a significant barrier.*"

**Village Planner Witkowski:** And cross out "[*crosstalk*]"?

**Boardmember Alligood:** Yes, I'm just trying to fill that in.

And then the other place where it says "[*crosstalk*]," at the second-to-last line, just take that out and put the word "*it*": "*. . .you're excluding 'it'.*"

And that's it.

**On MOTION of Boardmember Dale, SECONDED by Boardmember Logan with a voice vote of all in favor, the Minutes of the Regular Meeting and Public Hearing of January 15, 2009 were approved as amended. (Boardmember Dandridge in at 8:30pm)**

**III. New Business**

None

**IV. Old Business**

None

**V. Discussion**

**1. Retaining Walls**

**Town/Village of Harrison, NY; Section 235-26. Fences and Walls addresses measuring height of walls on slopes.**

**Chairperson Speranza:** Well, we're very happy that we have a free evening to talk about a lot of the things that we've wanted to cover. We'll start first with retaining walls, and fences and walls. Marianne, we spoke this afternoon about some of the issues on this topic.

**Village Attorney Stecich:** Let me pass it down. This is from ARCO, the regulation you have on it [off-mic]. And then I also found . . . we're really talking about walls that are more like . . . that border the property wall. Where the retaining walls have a whole different set of stuff.

I don't know, I had a bunch of statutes in my files on retaining walls, and this one came from . . . this is XXX, and Patty, you [off-mic] from Nassau County, from Long Island. But anyway, simple; I think a pretty simple statute on walls and retaining walls. You'll see it's not even a page long. And I left in the part about [off-mic] which we made, and [off-mic]. And I just thought that that statute, like I said, is pretty simple. But it may . . . the numbers may not be appropriate. I mean, it's got pretty low walls -- I imagine wherever they are flat. Maybe the numbers aren't right and the numbers could be tweaked, but it looks like a statute that at least would do some regulation. Oh, I was going to walk you through the one section we've got in the code. It's marked in yellow on the second page. This is the only regulation you have about fences or walls.

**Chairperson Speranza:** And there's nothing anywhere else about retaining walls.

**Village Attorney Stecich:** No, that's it. Now, the building . . . the fences don't require building permits even. We had made that determination [off-mic]. The walls would require

it. Not because the statute says a wall's required, but because they fit into the definition of structure and any structure other than the ones we excluded when we made those changes a few months ago require a building permit. So you would need a building permit for a wall, but other than that there's no regulation. There isn't even really a height limit. It does say that they could be 6-1/2 feet, they could be higher if the Building Inspector decides they wouldn't hurt visibility. I mean, it's pretty unlikely that that's going to happen, but the other thing is there are no setback limits on them either. Fences and walls could be anywhere.

So this is the only limitation in the code. And I don't know, maybe the thing from Plandome is too simplistic. But interestingly, it's not a common set of regulations and codes. I looked around, I [off-mic] a lot of codes on my desk, and it's not, for whatever reason.

**Chairperson Speranza:** That was one of the things I noticed in looking at Harrison. You're right: the wall part of that was decorative. It didn't deal with the retaining wall as a physical structure.

**Village Attorney Stecich:** There's a limit on the height, but then it also says they have to be a certain distance from each other, too. So you couldn't have retaining walls, like a 5-foot retaining wall. These can only be 2 or 4 feet, and then you have to at least go back 4 feet before you can have another one, and go back. It seemed like kind of an easy way to deal with it although, as I said, I'm not sure that the numbers are realistic in Hastings.

**Boardmember Dale:** I'd make a suggestion that the reason you don't find a whole lot of regulation is because they're so common. I brought a bunch of pictures I took, standing in one place at Five Corners. In each direction, every single corner has a retaining wall over 6-1/2 feet.

**Village Attorney Stecich:** Over 6-1/2 feet.

**Boardmember Dale:** Yes, every single corner, including the Aqueduct retaining wall on one side. The churches are all well above 6-1/2 feet off street level. One is ugly, which is the Food Emporium, the A&P's. And they have one in their parking lot as well, which is significantly larger than that. I think throughout Hastings they are one of the most common architectural details because of the slopes and the hills. I can see where, as part of design review, it's a real issue. And you don't want somebody doing a 20-foot wall, as Bill pointed out, 20 feet of solid concrete . . . but even in the parking lot behind the Boulanger parking lot there's a large retaining wall. It is set back, with a garden in between, but it's set back maybe 2 feet before it goes up. It's an issue of design, and how the wall is composed.

**Village Attorney Stecich:** But the only thing is, Bruce, it would never come before the Board unless . . . now, Boulanger would because that's not in residential. And it would be true if we had site plan review, but we don't have site plan review of one- and two-family houses. So that would make, probably, a good 80- to 90% of the property could be developed without any review besides the building permit.

**Boardmember Alligood:** Yes, the examples that you give -- the Food Emporium -- I would think that that could be dealt with in site plan review. So I agree that that's covered and is a design issue.

**Boardmember Dale:** Well, it was pretty ugly, and could have been better designed. But the others are perfectly acceptable parts of our landscape.

**Boardmember Logan:** We have to be careful about contemplating language which will create nonconformities through the whole Village. If we have a village where 8-foot walls are common, and all of a sudden you say 6 feet is the maximum, or fences shall be 4 feet and 90% of them are 6 feet, we don't want to go there. And perhaps that's the reason that there's this sparcity of language in some of these other codes about fences, is because we just don't want to over-manage this issue, and leave a lot of discretion to property owners.

**Village Planner Witkowski:** There's a lot of other states that have fence ordinances . . . they are very common, and it includes retaining walls. One municipality I worked in, in Michigan, we had a fence board, so they always had to go to the fence board to get approval.

**Chairperson Speranza:** A fence board.

**Village Planner Witkowski:** Yes, a fence board.

**Boardmember Cameron:** It's interesting you say that because I had to get special permission to have a fence more than 6-1/2 feet high on my property. And the reason why I got it was because it was backed up against some commercial building and they had a parking lot with fluorescent lights in it. You could just see them all the time, and a neighbor had done the same thing. So do we, somewhere, have a -- 6-1/2 . . .

**Boardmember Logan:** Oh, it's written right here in the code.

**Chairperson Speranza:** Right. It can't exceed 6-1/2 feet.

**Boardmember Cameron:** So I guess you start with that, and then you say, well, what's a stone wall and then what's a fence. In other words, so I can avoid the fence restriction by using stone is what we've just said. But I think we do need to come up with some reasonable framework, and give a lot of flexibility to the Building Inspector to look at these things.

**Boardmember Dale:** I think we all have an image of what we don't want. This subject came up when we were talking about terracing property, basically, and it was part of the steep slopes discussion. And how somebody would mitigate a steep slope by terracing it, and how that needs some sort of control before it becomes very different than an actual landscape. But I can see very quickly, by studying a definition for that particular circumstance, you create a major problem through the Village.

**Village Attorney Stecich:** I think you're both making the same point. You can always . . . I mean, existing walls can be grandfathered in. And actually, one -- I think it was Rye Brook -- had a statute that had really very specific provisions about them. That would be a good thing to add. So the existing ones aren't really the issue, but the question is what about . . .

**Boardmember Dale:** Building in Hastings, it's required in most circumstances.

**Village Attorney Stecich:** That's the question: what about the new stuff. Do you want any limit.

**Boardmember Dale:** I'm sorry. In most circumstances, building in Hastings is going to require a retaining wall of some sort because of the topology of Hastings. And if you walk up High Street or any of the other streets, they're all over the place.

**Chairperson Speranza:** Yes, they are. But we want to make sure that those . . . because we have had instances where the wall was going to be tremendously overbearing on an adjacent property owner. Thankfully that was one application that came before us, but in those instances where someone is building a single-family house and they don't come to us for any kind of design review it would be helpful to clarify the process of what kind of a wall structure . . . certainly not the decorative ones that were . . . that we don't need to be concerned about.

But if you look at what Marianne just pointed out -- the Village of Plandome, under walls and retaining walls -- they have a provision in here: ". . . *only so the aggregate height of it, and all other walls or retaining walls, which are aligned more or less parallel to it and within 16 feet of one another exceeds 8 feet at no point.*" That kind of gets to the terracing that we were talking about. So this may be something to look at in terms of a way to deal with taking a reasonable approach to this.

**Boardmember Dale:** Well, rather than pass . . . I mean, this starts out saying you cannot erect any wall or retaining wall without a building permit. I think if we wanted to work with the existing code, and look at this terracing piece and add that to the existing code and not make a major, full section for something that's totally common and necessary . . .

**Boardmember Alligood:** I always think, when we have this kind of discussion, that it's helpful to think about do we have recent examples of where there's been a problem. And, Patty, you pointed out a couple of applications -- or at least one that's come before us -- where you were able to address it. I can think of one example of a fence issue, where somebody put a 6-foot fence along their front yard. And the neighbors were not happy at all because it's completely out of character with that street. But there's no prohibition against that, so we have to think do we want to say that that's something that's not in keeping with most neighborhood streetscapes in Hastings and that we would want to be able to review that. Or is that one case -- we can live with that, and we hope that it doesn't happen again. I guess that's the question. In that case, there's nothing the neighbors could do. It's a solid wall of fence, and it's going to be there for many, many years . . .

**Boardmember Cameron:** Until it falls down.

**Boardmember Alligood:** . . . and it's completely out of character with the neighborhood.

**Boardmember Cameron:** Well, that's why a lot of these codes have -- like Harrison -- 4 feet in the front and 6 feet on the side so that you don't get that closed-off feeling from the street, which you do in that -- street which begins with "E." We all know the place. Anyway, it's not a pretty sight.

**Boardmember Dale:** Also, there's a big difference between walls and retaining walls.

**Chairperson Speranza:** Yes. Walls, fences, and retaining walls.

**Boardmember Dale:** Retaining walls are a part of the structure of building a house, and something that's quite necessary in some cases. A wall around your property for privacy, or for the definition of your property or whatever, "fences make good neighbors," as they say. That's two separate issues that I think should be separated, and not just mashed together.

**Boardmember Alligood:** Well, it is two separate sections, I thought we were discussing.

**Chairperson Speranza:** Yes, and we can. I don't see us coming to an agreement on new code language tonight. But I think these are good topics, and I'm thinking that maybe we take this home and then, perhaps, each of us kind of writes up the summary points that we think need to be addressed. Not limiting it to just the . . . or not only the substantive height and materials and aesthetic perspectives of these structures, but also the process. Again, one of the things that I did like about Harrison was that there was a lot of discretion given to the building inspector. So yes, you have to file a permit for fences that exceed a certain amount. . . I think this was all fences.

But not everything has to come back to the Planning Board or the Zoning Board. There are certain decisions that can be made on an administrative level. If something is part of a site plan approval or a subdivision, well, of course it's going to come back to us and that's something that we see anyway. But yes, in a situation where we're going to say, "Well, maybe it shouldn't be 6 feet, and the frontage be 4 feet in the front," that's certainly something that our Building Inspector could go out and rule on.

**Boardmember Cameron:** I'll just give you another thing which we have just created and we need to come up with a solution to it, is that we've just passed these new regulations on the height of buildings as they step down -- with the idea that people are going to have patios out on the back side, perhaps. And, you know, in a nanosecond you will see people putting fences up on those patios. They'll have one good argument: "Well, safety. I've got to have safety." On the other hand, you've just suddenly -- since a fence on top of it adds to the height of the building -- you've got another issue of view and what have you. And maybe we should have in the regulations, that in a this situation that you can have a fence -- obviously for safety -- but it needs to be an open rail or some sort of visual thing.

**Boardmember Dale:** Transparent.

**Boardmember Cameron:** Yes, transparent so we don't run into that. And we know it exists, even though it's hard to see, on top of buildings in this town. And even in part of our view preservation there's some up there. And, you know, I think we need to get up some practical solutions rather than having people avoid our regulations and us not really have a good answer of how they live with it. Because they shouldn't.

**Boardmember Dale:** Patty, in response to your thing, our current code actually does give the Inspector some leeway as far as the Building Inspector “*deems necessary for visibility and shall conform to the requirements set forth for the Building Inspector*”.

**Chairperson Speranza:** Right, for how far it’s got to be set back.

**Boardmember Dale:** “. . . *to create visibility.*” But they’ve set 6-1/2 foot as the limit.

**Boardmember Alligood:** But, Bruce, you mean the traffic visibility. Right? That wouldn’t apply to a terrace.

**Boardmember Dale:** No, I’m not talking about the terrace.

**Boardmember Cameron:** But that’s a corner lot.

**Boardmember Dale:** I agree that transparency on a terrace might solve that problem. I know of one case in the city where people had a terrace, and the wall was the standard required 3-1/2 feet that the city code required. They have a kid, so they put a 4-foot addition on top of that wall to keep their kid from climbing, falling off of it. And that was done in a material that was transparent, but accomplished the safety issue. So there are cases where you’re going to want to do that, particularly if you have little kids.

**Boardmember Logan:** Well, there’s another related issue, and that is what about hedges. You say, “Well, this not a fence, it’s a hedge. I have a Boxwood hedge, and it’s 6-foot, 8-foot tall, and forms a visual barrier.” Is that permitted? It’s effectively a fence. If you go out to Montauk or places like that -- the Hamptons -- everybody’s barricaded their places in with 12-foot hedges, which are effectively walls. I’m not suggesting we add that language to the code, but where does that fit in with the picture.

**Boardmember Cameron:** If you do a cedar hedge, the deer will take care of it.

**Boardmember Logan:** A privet? That would be a way around the issue.

**Chairperson Speranza:** I’ll be honest, that was something I’d never even considered at all. And maybe it’s because walking past hedges just doesn’t seem to me as offensive. And also now we’re getting back to the fence and the wall as something that’s a demarcation of the property as opposed to a structure with respect to function of a retaining wall. So yes, there are several different aspects.

**Boardmember Logan:** It’s a privacy experience.

**Boardmember Dale:** The issue’s visibility, so it would apply equally to hedges.

**Village Planner Witkowski:** For that reason, some of the ordinances in Michigan have fences and walls as part of the landscaping ordinance.

**Chairperson Speranza:** And that’s interesting, too, because there are some requirements. I think it was on The Terraces, where they wanted to expand the parking, there is a requirement for a landscaped buffer along the driveway there because it’s between zoning districts. So you have to be careful that we don’t . . . we wouldn’t be discouraging it on the one hand by regulating it, and then requiring it in another. So we do have to watch some of this.

**Boardmember Dale:** The question arises, is it a significant enough issue to do something about it. And if so, what is the significance that you want to put out, and limit it to that rather than trying to generalize it.

**Chairperson Speranza:** Fred, I interrupted you earlier.

**Boardmember Wertz:** I guess I'm thinking what we need right now is a kind of game plan for how we're going to work, as a board, to reach a resolution of this. I think we've started to lay out some of the dilemmas involved. On the one hand there's the problem with overregulation, and the need for flexibility in a village like this with all the slopes we have and all the existing features that are here. And so we don't want to regulate it in a manner that's going to be restrictive -- unnecessarily and inappropriately -- and we don't want to create a whole lot of work for our Building Inspector or our boards, which is really not solving problems but just following through on regulations that may not have even been needed in the first place. So let's not really go wild here and overregulate the situation. On the other hand, we have said there are certain situations that do need attention, and we definitely need a process, at the very least, for them.

So the question is, what's the process, what are the key situations that we really want to address. But my question is, how are we going to know that. We can go home and think about it, and come back and talk about it again. But I'm wondering if we can kind of specify how we're going to proceed in that regard a little better so we can get it over and done with.

**Boardmember Logan:** Well, I like Patty's suggestion about going away, coming up with language, and then we could vote on it again.

**Chairperson Speranza:** That's assignment number one for this evening. Ed, hi. Did you have any thoughts about retaining walls, the regulation? We'd received some information from the Town of Harrison, and you've heard some of the discussion here. I'm just wondering if you have any thoughts on this particular topic, or you never really thought about it.

**Boardmember Dandridge:** Well, I never really thought about it from this point of view. As a homeowner, as a parent, I certainly did and that point of view is sort of very safety-driven. But it strikes me that, particularly in this economic environment, we have three key issues. One, we want to make sure that whatever we come up with is transparent and is user-friendly not only for our Building Inspector but also for homeowners. It also sends a message to brokers and other folks that this is a not a difficult town in which to sort of operate, which would make it even more difficult for people in this market, all things considered.

The second point that strikes me is that there are some very distinct examples, which you guys seem to be very familiar with, where additional regulation might have been helpful. But I wonder if, in those instances, we're dealing with some folks who would have found any sort of loophole. Right? So we start talking about retaining walls as appendages to structure,

and then we hear the example of what happens out on the east end where people sort of circumvent that by using very tall trees.

So part of me is thinking that we do need to be transparent and logical. And part of me also suggests that in some of these cases that might be really egregious and offensive and we're always going to run into that. And I'm trying to balance to what degree do we want to regulate, and set out guidelines, knowing that for every action there's a reaction. I'm concerned about that reaction; about being overly involved in regulating this beyond what is logical and rational. Because we've got certain cases that everyone looks at and knows are sort of difficult to accept. I suspect that they would have found a way around no matter what.

So for me, it's less about what we come up with than the actual transparency of it and the fact that we give homeowners some real guidance and direction. But just as importantly, we don't sort of restrain trade, and their ability to sort of competitively position their property if they so choose to. And in this economic environment, I'm particularly sensitive to any perception that might make it more difficult for a homeowner to either improve or otherwise monetize their property.

**Chairperson Speranza:** I'm open to suggestions with respect to process.

**Boardmember Cameron:** I think your idea of a process is a good one, except I would actually simplify it even more and just set up a bunch of issues: you know, do you think we should regulate the height of fences? Yes. What height do you think a fence should be? You know, this height. And commercial fence is higher. Just a whole list of things, and then we can sit here and discuss them and vote them up or down. I think, just to go to your point a minute, the fence industry is way ahead of you. They already produce standard-height, 6-1/2 foot fences. If you go there, they already know what kind of fence you're going to have. And if you ask for a shorter fence they'd probably charge you more money because they have to cut it.

**Chairperson Speranza:** That could very well be.

**Boardmember Cameron:** It's a fairly standard thing, I think, what you do and don't have. The retaining walls and stone walls are custom crafted and they're different, but the fences are pretty straightforward.

**Boardmember Dandridge:** Well, let me ask you, if the point of regulating fences is . . . you know, I want to get to the underlying policy, right? So there's part of it that speaks safety. Right? There's part of it that speaks to privacy. And then there's the aesthetic part. Right? Did I miss any?

**Boardmember Cameron:** I think there's the reverse of privacy, and that is what happened on this particular street. I'm sure somebody can go show it to you. You look at the entire street up and down, it's lovely open yards one after another. And then there's one house that has this big high fence around it. And it does, I think, take away from the splendor and value

of the adjacent homes, candidly. But, you know, there's got to be a sense of regulation one side to the other. So that's privacy.

**Boardmember Dandridge:** I refer to that loosely as aesthetic, but I think your point is much more appropriate in a town of this narrow proximity. It's an important issue because it's not as though people have multi-acre property. So I guess as I'm thinking about this from a regulatory standpoint. If we're going to start to go down that road and try to put together some further guidance, it would be important for me to really sort of understand in the language how we addressed each of those separately so that it's clear, so that our guiding principles as they pertain to safety are rather explicit. Which would be separate and distinct from what I refer to as the aesthetic issues, which I think Jamie more accurately described.

**Boardmember Dale:** Jamie, I point out that in my area of the Village, on High Street and below High Street, all the houses were built in 1958 of a similar type. There are both examples. There are blocks where there are no fences between houses and there are blocks where every house has a fence.

**Boardmember Cameron:** I used to live just 200 yards from you so I know the area.

**Boardmember Dale:** Okay, so you're familiar with it. I mean, on High Street itself every house is clearly demarked from the ones next to it. But if you go down towards Jordan Road it's very different. And then there are people who, because they have a swimming pool, are required to put up a fence.

**Boardmember Cameron:** Right. And a lot of them actually put up a decorative fence.

**Boardmember Dale:** A decorative fence or just a chain link fence. My neighbor put up a chain link fence, but her property is separated from somebody else's property by a wood fence that's 6-1/2 feet high.

**Boardmember Logan:** I think this is getting to another point. I think you're the first one that had mentioned the aesthetics. I think it's potentially important, and maybe we want to think about this. You know, what if somebody puts up not just a chain link fence -- which some people would object to -- but let's say you had a solid metal fence for some reason; you know, a rusting, solid, corrugated metal fence. Could you do that. I certainly wouldn't want it next to my property. What if somebody put up a 6-foot-6 shiny plastic fence. You know, you see these in the new gated communities. I personally hate these things -- they just look so artificial -- but other people feel otherwise.

So this gets to the issue of materials and aesthetics. I think most people like a natural wood fence that weathers, but some other people might have different opinions. So I think this is something we have to have some control over.

**Boardmember Wertz:** What we started is a good idea, to specify the issues. And we've got fence height. Do we want to add the fencing material. You put it on the list, and we'll discuss it. I think we could come up with a list of the items that we're going to need to discuss when we come back. But that'll help us focus our study.

**Chairperson Speranza:** Very good. Okay, so we have height, we have material.

**Boardmember Dandridge:** And purpose, which gets to those three things, I think might be important. Because, well, we sort of covered it. We don't have to go into a lot of detail.

**Boardmember Wertz:** But what do we have to do with safety, for instance? You mentioned safety and I understand that's a motivation for putting a fence up, but I'm not sure what regulatory issue that would relate to.

**Boardmember Dandridge:** Well, if you have a pool, for example, that's a requirement. That's a safety issue.

**Boardmember Dale:** You're required for some other reason.

**Boardmember Dandridge:** And my point is, I would submit we might have a different standard around safety fencing as it pertains to a pool than we would with some other fencings that are erected for aesthetic purposes. And I would want us to at least be clear in our thinking as we go through this so that we don't create situations where people are erecting fences to technically comply, but don't really sort of meet the spirit of our underlying idea.

**Boardmember Cameron:** Well, we had that issue when they were redoing the wall on this apartment building down there. That we wanted to make sure the parking lot side of that wall was high enough so that somebody getting out of their car at night couldn't stumble over the wall. The wall was right down here.

**Boardmember Alligood:** Well, there's one safety issue that's already in our code, and it's huge, and that is visibility in terms of traffic visibility on the corner. Because we have examples of that, too, which somehow slipped through and are very dangerous. Because if you can't see the traffic coming around the bend it's a huge safety issue.

**Boardmember Wertz:** What about setback? I guess it would be another item that we could consider.

**Chairperson Speranza:** Right. And that's something that is in the Building Inspectors judgment right now.

**Boardmember Cameron:** They even got the edge in the intersection.

**Boardmember Dandridge:** I wasn't going to say that since we've already covered that. But to Eva's point, you know, the only thing probably worse than a fence is strategically-positioned shrubbery around it.

**Boardmember Alligood:** But my understanding is that is already covered in our code.

**Village Attorney Stecich:** It is. And the other thing I should say, I was wrong when I said there's no other provision [ff-mic] . . .

**Chairperson Speranza:** Swimming pool.

**Village Attorney Stecich:** [off-mic]. But for anything that would block visibility [off-mic].

**Boardmember Wertz:** Well, would it be a good method for us to start with our code as a given, and to only raise issues and items that would motivate us to change our code. Or are we taking a more global approach to this, and comparing our code with Harrison or Plandome and asking ourselves whether we need a different model for our code -- in which

case we might want to really adopt a rather different approach to the code, based on another village's. And I guess those are two different things, two different ways of going about this. To what extent are we really looking at these other towns and asking ourselves whether their whole approach to this issue is better than ours and maybe we ought to just move over to that. Do we even want to consider that.

**Chairperson Speranza:** I think, in terms of, Fred, of what you're suggesting -- coming up with a list of items that each of us should look at and decide how deeply we want to get into it -- you know, I'm looking at Plandome and, I mean, there are some topics in here that are not at all addressed in our code and whether or not they should be. I mean, both fencing *and* a building permit is necessary for any fence; the front yard dimensions; and the setbacks, as we were talking about.

**Village Attorney Stecich:** The one about the [finished side] XXX, [off-mic] finished side facing the neighbor and the street, hopefully whoever [off-mic] person put it in on whatever street you're talking about, put a finished side towards the street. But there's nothing to prevent the [off-mic] from going onto the street. So that's kind of a minimal thing, I would think, you would probably [off-mic].

**Boardmember Cameron:** Yes. And a lot of fences nowadays are made so they have no backside.

**Village Attorney Stecich:** They're not all, though, Jamie.

**Boardmember Cameron:** I understand. The split one, yes. I got backside by the fence.

**Boardmember Wertz:** But the question of a permit requirement would be another item that we would want to consider.

**Chairperson Speranza:** Yes, the process.

**Boardmember Wertz:** I'm just thinking that if we can specify what these items are now it'll be better than us having the homework of going and finding them and then coming back with something no one else had thought of.

**Chairperson Speranza:** Right. And that's what I'm trying to do. I'm trying to make a list here, going through this.

**Boardmember Wertz:** Yes, great. And if we see something in one of these other codes, like Harrison, that addresses something that we don't have, that's something we may want to think about.

**Village Attorney Stecich:** Well, Fred, the reason I suggested this Plandome [off-mic], it almost works like a checklist. That's [off-mic] identify the list. I think about everything we went through in fences is on here.

**Boardmember Wertz:** Well, it's really streamlined, and that's why I was thinking it may be that one of these other codes is just a model that is more streamlined, that's more economical. It hits all the issues we want, and it's going to work well for us going back to the idea of user-friendliness.

**Chairperson Speranza:** So I have "*height, aesthetics, or materials; the purpose, the setback, and the process.*" I think we should all take a look at this, the Plandome, and see if

there is anything else and, again, just come back to the next meeting with your opinion about these. And again, we may not all agree on both the process and materials. Then we'll work through it.

**Boardmember Dandridge:** You say we're not supposed to agree. Right?

**Chairperson Speranza:** It would be boring if we all did.

**Boardmember Cameron:** And maybe Plandome's one of the places where Google lets you walk down the streets. You could go and look at it.

**Chairperson Speranza:** Oh, yes. Look at the fences. I did look for it on Map Quest.

**Village Attorney Stecich:** You didn't find it?

**Chairperson Speranza:** Nothing by that name.

**Village Attorney Stecich:** Isn't that funny?

**Chairperson Speranza:** But I didn't spend a lot of time doing that, either. So is that it for fences, walls, retaining walls? So we've got our task there.

## 2. **Regrading of Property**

- \* **Town/Village of Harrison, NY; Chapter 133 Excavation and Soil Removal is fairly comprehensive and defines Commercial Excavation, Excavation and Regrading. Also addresses Hazardous Excavations; Exceptions from permit requirements and Standards.**
- \* **City of Peekskill; Chapter 480 Soil Removal and Excavation addresses exemptions from permit requirement; standards; restoration.**

**Chairperson Speranza:** So we'll move on now to something even more exciting; regrading and excavation. Now I should mention, we have someone here from the public and I'm just wondering if there's something you wanted to speak to.

**Female Voice XXX:** [off-mic], although I'm very glad to discuss the fences.

**Chairperson Speranza:** Okay, good.

Regrading and excavation of property. We started to look at our code which has nothing really with what we were concerned with having to do with excavation and regrading of land. We did get an email from Deven. Marianne, do you want to go through what I circulated to everybody. I want to make sure everybody got it. Okay, Marianne circulated it also.

**Village Attorney Stecich:** I had a phone conversation with Deven this afternoon just to talk a little bit more about, okay, so tell me where it's been an issue. Is there an issue. We were mostly talking about the fill, and there was somebody who came to him within the last year who wanted to know, "I want to bring in a truckload of fill onto my property. Can I do it?"

Do I have to get any permit?” And he said, “No, because there isn’t any regulation for it.” In fact, the person came in with two truckloads. I don’t think it was an issue, but it could be. You want to know what’s in the fill, both from an environmental point of view and then also you don’t want big stuff in there. You want stuff that’s going to settle. Anyway, it has come up.

It also came up on 9-A, oh, about a year ago on Ginsburg. Somebody asked us on behalf of Ginsburg whether they could fill that; whether they could put fill on that site. Apparently they had ground that they were taking, probably from the Scarsdale project would be my guess, and they wanted to put it over there. They came to find out if they could, and we just said no -- not based on anything in the code, but because it would change the site plan review and the SEQRA review we had done. It had been done on that basis. But if it didn’t, there really wouldn’t be anything.

So it does come up, and his concern was pretty much what I talked about at the last meeting. Two things: number one, you want to know what’s in the fill; and secondly, the filling can change the slope, and it can affect drainage. I know the other issue, although to tell you the truth I’m not sure how you would regulate it, how regulations would get around it. Somebody had come in with a proposal for something that was higher than was permitted under the code and couldn’t get relief. And so then the proposal was, “Okay, well, how about if we build up the earth on one side, and then it’ll only be so high. Can we do it?” Then it didn’t go -- whatever it was didn’t go anywhere -- from there. So it comes up.

The Harrison thing that was in our packet really dealt more with excavation than it did with fill. I’m not sure how much excavation is an issue. And I didn’t talk about that with Deven because I was focusing on the fill thing. But I went and looked at different statutes, different codes, on my shelf. Because most of the ones I saw -- in fact, the two that were handed out earlier, the Croton one -- you know, it’s not a bad provision. I’m not saying that because I wrote it; I had nothing to do with it. The Croton provision’s actually not bad when you read through it, but it’s big, it’s long, it’s cumbersome and maybe more than we need. Like Patty says, it’s like for a landfill.

**Chairperson Speranza:** Croton Point landfills.

**Village Attorney Stecich:** That’s only part of it. But anyway, I saw this Pleasantville provision. This is actually not bad at all. And it actually deals mainly with fill, and pretty much just says if you’re going to be -- well, he has the regulations on what could be in the fill. And if you’re going to put in fill you have to get a permit from the Building Inspector.

And then it says -- and I’m not sure, maybe somebody would understand this, I was trying to focus on it -- it doesn’t allow excavation at all except when you’re excavating to build something, build a house. But anyway, I’m not sure what the purpose of that is. I don’t

know, maybe you want to do the same thing with that as you're going to do with the fences law: take a look at it, and see whether it addresses . . . I mean, I won't say it addresses the concerns the Board has because the Board didn't really seem to be concerned. But it is something that Deven has raised to me several times over the years, we really have to do something about the fill.

**Boardmember Cameron:** Is Deven worried that we may have toxic materials in the fill that is put in the Village?

**Village Planner Witkowski:** That's one of the reasons. In Eastchester, remember when they were building that school they brought in a lot of fill from 287 where they had been doing the excavating, and they had to stop work on that for quite some time to test that fill that they were putting in there. So that's one of the major reasons.

**Village Attorney Stecich:** I don't think Deven is concerned that fill that has gone in is toxic, but there's . . . really, how would you know.

**Boardmember Cameron:** But we wouldn't want somebody to get a permit for bringing in a truckload of topsoil.

**Boardmember Dandridge:** Right. That's where the Pleasantville one is pretty cool, and in the second page there are a series of exceptions under 1(a) through . . .

**Village Attorney Stecich:** Which seemed pretty reasonable.

**Boardmember Dandridge:** "Reasonable." I mean, we might quibble with certain parts of it, but it does address your issue. But I think the broader point is, what's the legislative intent we would be trying to fulfill by looking at it. It's obviously to prevent toxic fill; to begin to create some sort of administrative review by our Inspector so that we do have a sense of what's going in. What else would we be trying to accomplish.

**Chairperson Speranza:** I also think it ties in very closely with the steep slopes that we just prepared. Somebody doesn't file an application until they bring dirt in, and suddenly they don't have a steep slope. That has all sorts of implications with respect to the amount that that property can be developed. I think that's one of the concerns.

**Boardmember Alligood:** It has to do with drainage.

**Chairperson Speranza:** Right.

**Village Attorney Stecich:** Drainage is big, yes. And in this, it doesn't necessarily have to be toxic. There's some stuff in fill that's bad not because it's toxic; it's because it's too big.

**Chairperson Speranza:** It doesn't settle.

**Village Attorney Stecich:** In my neighborhood in Chicago all the houses went up right after World War II. There's one whole block that the houses just . . . you could watch -- they sunk, really sunk into the ground because the fill had stuff that degenerated and made it go down. So I don't understand, but I'm sure there's grades of fill that would be in the building codes or something.

**Boardmember Dale:** Well, there are old-style wood frame houses where, when they're finished, all the leftover wood and pieces are just plowed under. And they decay and you

have termites, and the next thing you know you have termites in your house because they just covered them over when they closed construction.

**Chairperson Speranza:** At the last meeting we also got the excavation and soil removal code, or ordinance, from Mount Kisco, which also seemed to me to be a little more manageable than the one from Croton. So that's something else that I think we might want to take a look at. Again, we can determine what are the things. We know the things, at least so far, that have been expressed with respect to why we should undertake this . . . frankly, excavation I'm not so familiar with the idea. Although if you excavate and don't put in a retaining wall, what are the implications. I mean, is that one of the reasons that excavation could be problematic.

**Boardmember Cameron:** I think on a single-house site all these things -- excavation and what have you -- are really, I think, planned for the Building Inspector and not for us. And maybe that's where he would stand up there with them and look at it.

**Chairperson Speranza:** Okay, so we'll take a look at these two suggestions and then, again, we want to make sure that we're protecting the property, the adjacent property owners, as well as providing guidance for our Building Inspector.

### 3. "Greening" the Code

**The following material is included in this packet -- There is a plethora of material on the Internet, and I spoke with a few fellow Planners about the subject. The following were materials that seemed to be the best materials to get the discussion started and begin to focus on what approach would be most relevant to Hastings-on-Hudson. I will put together a bibliography, but I thought the following were the most interesting background materials.**

- \* ***New York Times* (1/18/09) Real Estate article that Jamie Cameron emailed to everyone.**
- \* **"New Rochelle Goes Green" from New Rochelle newsletter and Proposed Amendment to Chapter 331 "Zoning" Code Downtown Density Bonus (DDB): allows density bonus for LEED-certified buildings based on whether Silver, Gold, or Platinum. (Adopted 10/16/2008).**
- \* **LEED FOR Neighborhood Development: Characteristics of Pilot Projects and related material from [www.usbcg.org](http://www.usbcg.org) (US Green Building Council).**

- \* **Neighborhood Development Project Checklist and New Construction Project Checklist.**
- \* **Foundations in the Leadership in Energy and Environmental Design Environmental Rating System; a Tool for Market Transformation; LEED Policy Manual; August, 2006 LEED Steering Committee.**
- \* **DRAFT Infill Development Standards and Policy Guide; Chapter 1 Introduction and Synthesis of Findings and Recommendations. This study, prepared for NJ Department of Community Affairs Office of Smart Growth by Rutgers Center for Urban Policy Research explains the ordinance included in Chapter 2, and its underlying rationale, very well.**

**Chairperson Speranza:** Now what I consider to be the fun topic: greening our code. Eva, why don't you start with what you passed out today.

**Boardmember Alligood:** Yes, sure. I think it's relevant to the discussion only that it's an interesting take on how we define what greening is. We got lots of materials from Angie about LEED certification and the idea of not creating sprawl, but it's just an argument about how preserving old buildings is actually greening in and of itself. Because just tearing down a building and taking materials away, and then trucking in new materials, even if you built that new building to LEED standards your carbon footprint is actually much higher under that scenario. So I just shared it because I don't know how we translate it to anything specifically in our code, but it's kind of a planning principle that it's something we want to work towards that, when possible, preserving and reusing buildings is a green technique. So I just thought it was a well-argued point. I just wanted to share that with you.

**Chairperson Speranza:** Thank you. And I think you're right. You know, you mentioned that this is one approach. And the work . . . certainly the materials that Angie provided us, things that we have all seen and heard . . . and I spent quite a bit of time online also, going through the many, many different Web sites that now exist that deal with sustainability or energy conversion, greening the code. And LEED has the whole LEED neighborhood initiative now. We can take this as far as we want to take this -- this idea of greening the community/greening the code. If we stick with the idea of greening our code, then we have to . . . Jamie, you and I have spoken. What do we do within the context of the New York State building code? Are we looking only at the zoning code? Because we can go off on many, many different tangents with this.

One thing I have to say -- and, again, I didn't look at every single site -- but I didn't see very much with respect to greening a zoning code.

**Village Planner Witkowski:** There isn't much.

**Boardmember Alligood:** Well, it's interesting -- the argument in a paper that Angie gave to us that was very interesting -- it really is about infill development standards. And this whole notion that the way you prevent sprawl is that you create development in pockets of more densely-populated areas that are close to transportation. But their big argument for how to make that happen, in part, is to use the regulations to make that happen. And it made me think a lot about our recent examples of infill development in Hastings, and those laborious processes.

**Village Planner Witkowski:** Now, it was the EPA. They had a model ordinance for infill development.

**Boardmember Alligood:** But to contextualize it to our specific example, I went back to a suggestion that was made at our last meeting, which is to really take a look backwards and evaluate those -- you know, our recent experiences -- and learn from that, and say what would we want to change. I mean, they make the point in here about something we discussed last time: are our parking regulations too restrictive, especially when it comes to affordable housing. And I'm just curious. I'd like to see if that's the case in our recent examples, and there were some others as well.

They talk about fast-tracking projects. I think we should really look at what would we change if we think that our recent examples of infill development could be made more streamlined. What is it that we would change. Or do we think that everything turned out the way we wanted it, and it was fine, and we'd be happy to repeat that process. I think that's something that we could create a little task force of interested members. Last time it was suggested it would be a joint group, with the Architectural Review Board. I think that would be a really interesting study.

**Chairperson Speranza:** You have a task, and whoever else is interested. I mean, I think it's a good idea. Definitely, I have no problem with subcommittees, to do some of this, at all.

**Boardmember Cameron:** Just a couple of other examples. And I think it's wonderful the affordable housing has geothermal heating. And while we have nothing in our code -- maybe we don't want to put anything in our code -- from an environmental point of view it would be very good to encourage any new -- not single-family, but any new development in this town to go in that direction. You know, to do geothermal to start greening the place.

Another example would be that we look at their site plan -- I know this sounds backwards, but it really isn't -- for retaining water on their site so we don't have as much going into our sewers or going into our streams. You don't have to take fresh water to water everything on the bloody property. In other words, we encourage them to do those. And maybe we can

come up with a list of things like that which -- whether some day in the future we put them in our code, or for the present time -- we just had as our checklist that when a development comes up this is an encouragement with us that we try to get . . . my favorite, of course, is you don't put electrical stuff in your basement when you're in a floodplain. But you all know that by now. You know, that's on my list. Don't kid yourself.

But anyway, I just think it's things like that we could start -- even if we can't change the New York State building code or understand it. But things like that, that we can start taking steps and gain a reputation for our building.

**Boardmember Dale:** A number of individual homeowners have taken steps, when they renovate their property or when they buy a building, a house, and they move in. They've done things like put barrels underneath the water collection, and they're using it to water their lawns. Things of that sort, or solar panels or some of the more standard energy-saving things. The question is, to encourage that do we have any way of creating an incentive for people to pursue this.

**Boardmember Alligood:** Well, there are specific incentives we could create. Reducing the rec fee by a certain amount if you're willing to put this technology in that's going to be good for the whole town, that's green. There are other examples but, I mean, things that cost the developers money but we can incentivized in other ways.

**Boardmember Logan:** Well, we have the example, I think -- was it New Rochelle that had density bonuses for certain LEED things. And infill development's one thing, but we have this huge opportunity, 26 acres in our Village, where we have . . . I was just going through the LEED neighborhood development checklist, and, you know, so many of the pieces are already there for that site in terms of proximity to transportation networks, reuse of existing buildings, etc. -- floodplain avoidance, ground field redevelopment. You know, the possibility of on-site energy generation. What could we do with 26 acres. How about 10 acres of solar panels. I mean, we could power this village with what's on that site.

I'm going off the deep end here, but in terms of growing stuff on the site down there we've got 26 idle acres. You think, God, we could feed this Village with what we could grow on the site, and power the Village as well with what we could grow on the site. But simple things like, say, a floating district or a density bonus for certain LEED targets. For example, just going with what New Rochelle has done: a density bonus of 25% for LEED goals, for example. And LEED, of course, brings into -- and all the factors in terms of water usage and bodied energy and transportation, etc., etc. So there is a scoring system there which we can tie into directly. And I think we really should think about the waterfront as really a huge opportunity for this Village to take the lead in terms of new development.

**Village Planner Witkowski:** In this next phase, the LWRP implementation stage, one of the tasks in the scope for that grant is to do the design guidelines and zoning for the waterfront. So that'll be part of it.

**Boardmember Logan:** So that's really on our plate.

**Village Planner Witkowski:** And I'm trying to get an extension because that's supposed to be . . . the date was March 31st of this year, so I asked for an extension until next March so that it can be done in coordination with all the comp plan work.

**Boardmember Logan:** An extension until 2010?

**Village Planner Witkowski:** Yes. They'll only do a one-year extension.

**Boardmember Alligood:** One suggestion, because I think there's still a lot of debate within the Village about where density should be encouraged. That, I think the comprehensive planning group is looking at that. There's still a lot of debate on that. And another way to look at it is to say where there are other places in the downtown where that could take place. I mean, there's an area right next to the train station now that is really undeveloped, which is our parking lot. And that whole strip, the street going into our downtown, is really quite sparsely developed. You know, we could create more open space at the waterfront -- where I think there's a lot of resistance in the community, which we have to be mindful of -- to create density on the waterfront, block the views. I'm not taking a position either way, but I think we're getting into kind of some major policy debate. But there's still ways to cognize density within parts of the Village that . . .

**Boardmember Dandridge:** But I think we're taking a really responsible step here in doing this. Because we're not regulating it; we're not going to sort of mandate any changes to the code. We are going to try to identify some market-based incentives that would help encourage people to be innovative, which we all know is a necessity. To the degree we can start doing it at the same time that we try to figure out what the end game is. And we all know that the end game is the waterfront. We might benefit from some incremental experiences and accomplishments so that when we do get to the end game, which is what we are ultimately going to do on the waterfront, we'll have some real examples elsewhere in the Village.

So the idea of sitting down and trying to figure out what the offset credits or other incentives that we could do that are sort of market-driven, to encourage more responsible innovation and out-of-the-box thinking with respect to LEED to me is, I think, exactly what we ought to be doing. That's really, really very smart because it's voluntary, there's a market incentive. And for developers, it gives them more flexibility, not less.

**Village Planner Witkowski:** I just wanted to mention that the zoning part and design guidelines, that won't be done until after the waterfront redevelopment plan is updated. That would be part of like the second phase of the planning process. Because it still has to be updated, so we're hoping it can be like part of the waterfront element of the plan would serve that purpose of also being the update of the waterfront. Because when the waterfront

redevelopment plan was done they didn't have any record of decision for the Tappan Terminal at all. So there have been a lot of changes, you know, and they found some more areas as they've been doing the work on the ARCO site. The ARCO ROD wasn't even done at that point.

**Chairperson Speranza:** Right. We know there's more to come with respect to the waterfront and the LWRP. I think the idea of finding the way, whether it's density bonuses or some other incentive -- the offset of some type of fees. I mean, we don't control taxes. Because there is something . . . I think it's New York State that has a tax incentive for green building. Or I think it's for energy reduction. So there are a variety of ways. I think for this Board to try to get a handle about where we can take steps without getting lost in all of the interesting ways to go about it.

I wrote down here . . . because I thought it was interesting. I know the Town of North Castle has been doing their carbon emissions footprint, with a goal towards actually looking -- coming up with a baseline emission. But of course we, as a Village, could do that. Is that the role of this board? I think not. I think it's exciting to think about doing it, knowing all of the elements. And when you walk down the street it makes you realize things, but I'm not sure that that's something that we really need to . . .

**Village Planner Witkowski:** I think the county's trying to do that.

**Boardmember Dale:** I think the Trustees have actually done the Village's carbon footprint to some extent, and energy consumption.

**Village Attorney Stecich:** They hired someone. They had a consultant about a year ago, come through.

**Chairperson Speranza:** But for the Village, this is how many cars drive through the Village and traffic counts.

**Boardmember Dandridge:** Carbon footprint.

**Village Planner Witkowski:** But the county's going to be doing that, I think.

**Chairperson Speranza:** I don't know if they're doing it for the communities. The county did it for Westchester County. I don't know if it's broken up on a municipal basis.

**Village Planner Witkowski:** But I was looking at that site, and it looked like it's the first step for the county. And I think they're going to be coordinating with the villages and the towns. Because it sort of has to be done on a . . . I mean, you have to take neighboring communities into consideration and everything. It's more of a regional thing than just one little Village.

**Chairperson Speranza:** The air moves.

**Village Planner Witkowski:** Yes, air moves. Right. It's like being part of a watershed. You know, it goes beyond municipal boundaries.

**Chairperson Speranza:** And water is another one. Not just the carbon, but also the water.

**Village Planner Witkowski:** That's why we get the consortium for stormwater management.

**Chairperson Speranza:** Right.

**Village Attorney Stecich:** I was just going to say, last night at Irvington people came in and made a presentation to the mayor there, he is a big environmentalist, and there's this Web site howgreenismytown.

**Boardmember Cameron:** Right. That's a good site.

**Village Planner Witkowski:** Oh, that sounds good.

**Village Attorney Stecich:** It's a really good site. I made copies.

**Boardmember Dandridge:** You're a busy beaver.

**Village Attorney Stecich:** I've been on the Xerox machine all day today.

**Village Planner Witkowski:** That movie was on not too long ago, *How Green Is My Valley*.

**Village Attorney Stecich:** I was just going to show you how this thing works.

**Chairperson Speranza:** I know. We always have to print them out. Right?

**Village Attorney Stecich:** You're right. You look, and it's kind of overwhelming. But the site is howgreenismytown. And then I copied what was on the first page of it. You know, all those things are links. Then you could click on a comprehensive policy, and then it gives you a sample policy. But like sustainable building development, if you click on that -- if you go in a few pages, I think page six is where it has its listing of some issues on sustainable building. And then it's mandate or encourage green building projects; the adaptive reuse, the thing Eva was talking about; encourage mixed-use zoning. Then you click on each of those, and then it gives you ideas within them. And then within them it'll refer to some . . . like here, if you switch. Go to page seven, that's like what kind of incentives can you give. And then it gives you some ideas, and then it gives you articles about it.

It's a really easy site to use. And the people who came last night didn't give a long presentation because she had asked that it just be short. But they were really smart and really, really very good and, I think, go around and do this if you ever wanted it. But maybe if you looked at the Web site, I don't know if it makes any sense to have them come in. And apparently, they've also . . . like it encourages using permeable materials. Okay, then you go to that page and it lists some permeable materials. And apparently they've done a check to make sure that the stuff is good. Do you know what I mean?

**Chairperson Speranza:** Right. That it works.

**Village Attorney Stecich:** Because there's a lot of stuff out there. But there is some quality checking. I don't think they guarantee it or anything, but there is some quality checking.

**Boardmember Dale:** So Grassroots Environmental Education was the people who made the presentation?

**Village Attorney Stecich:** Yes, they were the people who came. It was two people, a husband and a wife. I think they're based on Long Island. And they were very articulate and had passion.

**Village Planner Witkowski:** You know, New Jersey has . . . I got a lot of this stuff from a New Jersey Web site. They have a lot of model ordinance stuff, and they really have done a great job on theirs. One of the planners in their department of environmental preservation -- I think it's DEP there -- I got to know her pretty well because I went to a lot of the Brownfield conferences. And she might be a . . . I could talk to her to see if she'd be interested in kind of talking about that because she's been involved with Brownfields and green building and everything for years, and has done a lot of the seminars and things. And they have always put together a really good conference, the Brownfield Association.

**Boardmember Logan:** I think also a thing that you mentioned earlier, Angie, is that we have this basically due date of March, 2010 to update the LWRP.

**Village Planner Witkowski:** No, the update is as far as we could go with it, the LWRP plan.

**Boardmember Logan:** Extension.

**Village Planner Witkowski:** That was the LWRP plan preparation. Remember, the "P" in LWRP is "program." So it's the plan. And then the grant that we have now is for the LWRP implementation. Before you can get to the point where it goes for the final 60-day review, and then the Department of State makes copies and sends it to a whole bunch of different agencies, you have to have everything in place. Like the new zoning, all of that has to be in place; the consistency laws and all that. And then it goes to the state. So there's still a couple more review steps that you have to go through with the state. Because what they do at this point, before you get to that, is these are completeness reviews. It's just to make sure that you've got everything addressed that you need to have addressed.

**Chairperson Speranza:** In the document.

**Village Planner Witkowski:** And Bonnie Divine had given me a whole list of things. She realized that we couldn't get to them until the waterfront redevelopment plan was updated, which couldn't be done until it could be consistent with the comprehensive plan. It sort of has to be coordinated with that because you have to have internal consistency. So that's why we'll be able to get this extension. Because I've been in touch with her. So we'll probably have to get another extension, but they can only do it one year at a time.

**Boardmember Logan:** I guess what I'm looking for is some kind of a deadline that we can work to. Because I think these 10, these things, if they're just a wish list they can just go on and on and on and on. We should be working to some sort of a conclusion on a timeline to focus our attention and get some stuff done.

**Village Planner Witkowski:** Right. And you have to be making progress for that \$60,000 grant.

**Boardmember Logan:** So let's set a goal for ourselves.

**Chairperson Speranza:** For this in general.

**Village Planner Witkowski:** For that in general, I just brought it up because Bruce had mentioned it and you had talked about it as an opportunity. And that will be an opportunity

as part of that. But there are other areas you could be looking at other than just the waterfront.

**Chairperson Speranza:** And that's what we're getting back to now. So Bill's going to come up with a schedule and an approach because I think it's going to be disciplined.

**Boardmember Logan:** March 19th, 2009 next meeting.

[crosstalk]

I don't even know how to get a handle on this.

**Chairperson Speranza:** Well, that's the problem I have because there are so many different elements.

**Boardmember Logan:** Except to focus our minds with some kind of a time frame and a set of goals.

**Boardmember Dale:** The first question is, how much can we accomplish. You're not going to rewrite the code.

**Boardmember Logan:** I guess we can educate ourselves, see what the issues are.

**Boardmember Dale:** Right, exactly. Break it down into pieces and go forward that way.

**Chairperson Speranza:** And what are the powers that we, as the Planning Board . . . and I'm not saying it doesn't mean we can't talk to the Architectural Review Board and talk to the Board of Trustees and Sustainable Hastings to push things along, or if we come up with an idea. But knowing the focus of this board and what we are able to do, we've got to try to frame things within the actions that we are empowered to take.

I just want to check, Fred -- and I know you've only recently been dealing with the Comprehensive Plan Committee, and I know next week they have the kickoff with the consultant -- how have they been dealing with this. Because I want to make sure that they're not looking for going down the exact same path that we make.

**Boardmember Wertz:** We don't want to duplicate efforts with them, but it also is important, I think -- as Bill pointed out -- that the waterfront, but also the Village as a whole for the comprehensive planning, needs to consider these issues and to take them into consideration. And I think the consultant firm definitely will, and should. And if there's some way we can interface with them so we work in concert, without duplication of effort, that would be ideal really. But if I could report back to you all on where they are with regard to this and how might we be able to help them move in the direction that they need to move, or inform them and even maybe inform them of what we're doing, or even make suggestions to them. Because they're going to be engaging in a process that will address, and call for feedback, from all interested agencies, stakeholders within the Village. And so that we, as a board, will want to follow their process, and give them input, at each phase really. And so we have an opportunity to do that.

So once we assess where they are, where they're going, we can see what kind of contribution we want to make and know what our time frame is. You know, what is our goal. Because I think the time is now, and this comprehensive planning process is the perfect vehicle to be exploring and delineating these kinds of things for the Village. So we can do it. It's perfectly set up.

**Village Planner Witkowski:** Can I just make one suggestion? I was thinking one way to start for everybody to be looking at each of the zoning districts, kind of with an eye on where that particular zoning district may have things that could be changed or made better -- I'm getting tired of the word "green," but you know what I mean -- like more transit-oriented development, maybe the building coverage if it seems like it's appropriate and is kind of encouraging.

**Chairperson Speranza:** You know, I think that's not a bad idea. I think it may be a little overwhelming, but I'm wondering could we do this topic by topic when we talk about approach. Building reuse; you know, the infill housing, infill development, the parking regulations. You know, could we look at the parking regulations. Can somebody go through and find what kinds of incentives people, communities, are putting in place to encourage this. Is that reasonable?

**Boardmember Logan:** I'm also trying to get back to your point about what our mandate is as a board, and what we can argue that this is part our role as a planning board to make recommendations to the Board of Trustees for language in the zoning. Is that a concise statement?

**Chairperson Speranza:** Zoning, subdivision, a new steep slopes clause. So yes, our purview covers many different things.

**Boardmember Logan:** Well, I think that should sort of frame the discussion. You know, the Planning Board with its mandate to look at broader planning issues and how they may affect the zoning codes going forward. For that reason we are now looking at green issues as they affect both the existing Village and new development. And what's a preamble that gives us some momentum. That we go into this thing not duplicating the works of others, complimenting processes that are under way like the Comprehensive Plan Committee. So we find a neat way to dovetail without spinning our wheels and without overreaching.

**Chairperson Speranza:** Right.

**Boardmember Logan:** And I think that'll help us narrow our focus and really zero in on what we can do and what we should be doing. I'm still a little fuzzy about some of those things, but everything I said sounded appropriate?

**Chairperson Speranza:** Sounds good, yes.

**Village Planner Witkowski:** Made sense to me.

**Boardmember Alligood:** And in that process, I think researching relevant towns of our size and of our basic geography. Because New Rochelle is a really different animal from us. You know, I liked some of the concepts, but applying them here would be very tricky; the

kinds of density bonuses that they want to give there, and encouraging huge projects, just wouldn't work here.

**Boardmember Logan:** I don't know what the baseline of the RPA plan was, but I don't think buildings are more than six stories, for example.

**Chairperson Speranza:** At the waterfront.

**Boardmember Logan:** So a 25% zoning bonus might mean there are seven stories in certain instances. We're not talking about 20-story towers ala Yonkers; we're talking about incremental based on the scale of what we've already been discussing. Not discarding all the plans that have been carefully discussed and argued about.

**Boardmember Dale:** The comprehensive plan, or the LWRP, is going to define what we collectively as a village want to see built there. To then impose on top of that a bonus, it would seem to me this was an opportunity to build green into the original planning and not have to incentivized what gets built there.

**Boardmember Logan:** No, we don't want to give them four so they can go to seven.

[crosstalk]

**Boardmember Wertz:** We want to work with them along the way.

**Chairperson Speranza:** This is when the minutes say "crosstalk." Eva?

**Boardmember Alligood:** I was just going to say, I think that's an excellent point. Because right now there's no as-of-right development of any six-story building yet on the waterfront. So we have the opportunity now to say if you want the six stories here's what you need to provide.

**Boardmember Logan:** Right. As-of-right there's four, you want six.

**Boardmember Dale:** Or even more than that, the Village has the right at this point to design the envelope that gets built and lay the parameters under which code the construction takes place. So that green elements can be built into whatever happens on the waterfront, separate and apart from the rest of the Village. The Village is existing, and you want to change things here by creating incentives to get people to green the Village. We have control over what happens on the waterfront, to a certain extent. We can build that in up front. So it's a little bit of a different task.

And the question I have is, how do you work within the existing code and incentivized people to do the right thing here. You know, parking may be one element. There's an education that we need to go through in determining what are the elements within the code that we have sufficient control over that we can create an impact; that will generate some sort of improvement in the carbon footprint or all the other issues that go into defining green. This starts out to be decent; that from howgreenismytown, try and figure out what the relationship these topics have to our existing code, and can we then zero in on what we can work on and what we can tinker with that we might have some results.

**Boardmember Dandridge:** I think the way I'm looking at this, besides wanting to go to this Web site and learn a lot more about my local government, my school system, and whatever else sort of fell off the top of the page just by way of basic background, is we have a couple of approaches here. Do we try to sort of use this as a rough road map, which I think it wouldn't be the worst way to go, but I also think there's a way for us to use some of the points made earlier -- to take out certain parts of this and use it to help frame out ongoing work -- almost sort of this day forward and sort of build into it.

I also look forward to hearing what Fred has to report back, once he gets into some of the other sessions. My sense is that there is going to be some very clear lines of demarcation or areas of engagement that other folks will stake out which we need not replicate. But that's not to say that we can't sort of work on our own preamble that gives us a rolling momentum on stuff that we ought to own. And I think if we do wind up in a situation where we come up with some great ideas about market-based incentives, the worst thing that we do then is we raise the bar, we incentivized other people to similarly think that way in their own sort of committee work. And the best that we can do is actually get to a point where we can actually implement it, which I think would be extraordinary.

**Boardmember Alligood:** The other thing that strikes me is that there's the piece of incentivizing the private sector to do what we want them to do. But there's also recommendations we can take about the town being proactive in making those things happen. And sometimes there are things that the private sector can't take care of, for instance, I think the parking issues in town. I mean, we got recommendations from the consultant when we went through the process of looking at the Hastings House. We got recommendations for how the town could take charge of some of the parking issues and create a better environment for all the businesses in the downtown. And that's something the individual applicants can't really make happen. That's just one example I'm thinking of.

But even trying to strategically find places to put parking so that we can encourage . . . right now our code is very difficult. We have onerous parking requirements so it makes it difficult for projects to get through. We could, as a village, take care of some of those issues, or work in partnership with the applicants to take care of some of those issues. So there are opportunities there.

**Boardmember Dale:** You know, Hastings House is a good example because it's something we all agreed was very much needed for the Village. And it took 19 months, I gather, to get through the process.

**Boardmember Cameron:** Well, much of it was because they didn't get back to us.

**Chairperson Speranza:** Right. I was going to say, people say what took you so long. And it wasn't just this board.

**Boardmember Cameron:** They were trying to get a lease from Chase.

**Boardmember Dale:** Yes, the lease from Chase did delay it.

**Boardmember Cameron:** Chase had other things on its mind.

**Boardmember Dale:** I wonder why. No, but we made it clear in our own discussion that they weren't going to have any success with the catering unless they did get the lease.

**Boardmember Cameron:** And actually, interesting enough, we talk about onerous parking restrictions -- and we can talk about those -- but our real focus should be how can we get people to get rid of cars and just not have them. Because if Hastings has had a problem over the last 40 years, it's that the population has gone down, the number of cars has gone up by a factor of something like four. We have far too many cars in this town, and I know this is an American habit but if we can find ways so people could use mass transit or walk or things of that nature much more it'll make your parking problem disappear all by itself and it'll be much better.

**Chairperson Speranza:** And if we could all find work here or by train, then we'd be good. If we didn't have to drive to White Plains or Mount Vernon.

**Boardmember Cameron:** Well, we obviously needed that 5-foot rail across Westchester right through White Plains. That's your missing link.

**Boardmember Logan:** Yes, right down the center of 287. Right?

**Chairperson Speranza:** So what are we going to do now? We've had good discussion about this, but what are we doing for the next meeting on this. Should we each give some thought to a specific area that we really want to delve into? I know we've talked about looking at other resources. I know I've sent an email to NYSERDA to see if they do something with localities with respect to the codes. I know they do the energy audits and they do things for residential and they do things with commercial businesses where they'll go in. But I'm curious to see whether or not they do anything with communities. But again, that's one step.

How do we deal with it? Do we each pick a topic to talk about at the next meeting? I don't know. Bill what do you think?

**Boardmember Logan:** Well, I guess we could do a homework assignment. This howgreenismytown sounds like a great thing, and just maybe go through the LEED neighborhood development checklist. And also read our code, after having looked at these things, and maybe we should just see if we can come up with a number of points that should be addressed.

**Boardmember Dale:** I would actually recommend we come up with a plan on how to proceed, and really think through what it is that we can accomplish and how we're going to go about it; what resources are available. I mean, this seems to be a great place to start. And think about how you would work with this, and how would it penetrate from this to the actual code itself.

**Boardmember Cameron:** And part of thinking about that, we should think of where we get the biggest bang for the buck. Because quite frankly, if you were to look at possible developments in this town in the next few years, they're going to build three times as many houses. And all the individual people in this town will build over the next 10 years. In other words, I'm thinking of 9-A, 54 units. You're not going to have 54 units built in this town for the individual houses. So the extent you look at a developer, you're doing a site plan; they want things from us, we want things from them. Then whether we put it into our law or not, we could say, well, we'd really like to see geothermal, we would like to see this, we'd like to see triple glass, we'd like to see that, that, or that. And we have certain amounts of flexibility, too, as we go through this kind of approval. But we need to know what we want.

**Boardmember Wertz:** Well, you're suggesting good methodology. As we read through this material take notes of what we want on our checklist. It doesn't have to necessarily go into the code, but it's a point of reference for us when there's a proposal. It's part of our negotiating frame of reference.

**Boardmember Cameron:** Yes, and it's going to happen.

**Boardmember Wertz:** It's going to happen anyway, but we need the resource, we need the reference, and we can build it out of this material.

**Boardmember Cameron:** And we need to build up the brain power, and understand what we're asking for.

**Boardmember Wertz:** And why.

**Boardmember Cameron:** It's not unreasonable. We can't ask for unreasonable things. We've got to ask for things that will help the builder and help the builder sell the units, too.

**Boardmember Dale:** The research out there will tell you what the payback period is on a lot of things you're just citing as improvements to buildings. And knowing those are useful in the discussions with developers.

**Boardmember Cameron:** Right. As long as you know the price of oil you're all set.

**Boardmember Alligood:** I think we have to have some methodology for measuring whether we've come out ahead on our green goals in that type of scenario, I could see us reviewing a project, multi units, where we say, "Well, we'll give you a few more units if you put in this type of geothermal system." And in the end, we've put so many more cars on our street that we're actually negating the benefit of that.

**Chairperson Speranza:** That's true.

**Boardmember Alligood:** These are the kinds of things we really have to think through, especially if the development -- unlike the one right in the middle of our town -- requires everyone to drive, there's no other way to get there, that type of scenario, to start with, it doesn't conform with the more progressive things we want to see.

**Boardmember Dale:** I think I cited this before. I attended a LEED training in 45 Main, and they used that project as an example of each of the categories as they went through. They graded it, and the building would have gotten not gold, but a sliver, sticker had it applied for it -- but chose not to because of the cost and time involved in that process.

**Boardmember Alligood:** Which is another thing.

**Boardmember Dale:** But it is basically certifiable.

**Boardmember Logan:** I just thought I had an idea to solve our parking problem. If we just restripe all our parking lots so that they're smaller and narrower, we could only have small cars in the Village.

**Chairperson Speranza:** Smart cars?

**Boardmember Logan:** Yes, smart cars. We have like 10% of sort of noble cars and 85% smart cars.

**Boardmember Dale:** Required every family to have two cars; one for the highway and one for in town.

**Boardmember Logan:** And they have to keep them in their houses.

**Chairperson Speranza:** So are we clear? Next meeting we're going to be talking about walls, fences -- including retaining walls -- what are the elements of concern. You have height, aesthetics, the purpose, setback, and the process by which we want to have them regulated or not regulated.

Excavation and fill, we've got a couple of ordinances to take a look at. Again, keeping in mind that we know that the concern has been primarily related to fill, as expressed by our Building Inspector. How far, and in what detail, do we need to get involved with regulating excavation and fill.

And then for greening our code I'll let Bill come up with a preamble for this.

**Boardmember Logan:** Preamble tonight, you mean?

**Chairperson Speranza:** No, for next month. You can get a lot of it out of the minutes, so we'll have to get the minutes. Make these great thoughts once.

**Boardmember Logan:** We need the minutes a week early.

**Boardmember Dandridge:** If I can, I'd like to roll up my sleeves and just dig a little bit more on what I might be able to find in the way of public/private partnerships that incentivized developers.

**Chairperson Speranza:** That'd be great.

**Boardmember Logan:** It sounds like Geitner talking here.

**Boardmember Dandridge:** Of all the folks that you could have said, he would not have been my choice. But any little bit, every little bit, helps. I do think that there are any number of municipal programs as well as private sector programs where you have very smart and very conscious tradeoffs that municipalities make, whether it's on limited signage that has environmental-friendly messaging in exchange for a percentage of the revenue, which goes to sort of deal with extreme . . . all sorts of remediation and environmental complaints. Those types of things which are sort of beyond our purview, I can look and see what I can

find, and sort of narrow it much more in the way of development and planning. Because anything that we can do, whether it's the traffic issue -- where we have folks coming in with really interesting and perhaps economically viable development -- we can meet them halfway or maybe more by taking on some of these things and coming up with much broader collective solutions. Particularly if they're also having to throw off some revenue. I want to play with that a bit.

**Chairperson Speranza:** And we're all going to look at the LEED checklist and go through the materials, and have that howgreenismytown Web site, and come up with ideas of things that should go on the checklist for our review of plans when they come in. Good?

Now, let me ask the tough question. Angie, do you know of anything that we might be dealing with next month aside from the three things we just discussed? We're going to have 12 accessory apartment renewals next month. Something's going to happen, and we're going to have a three-hour meeting.

**Village Planner Witkowski:** No. I think there's one accessory apartment, and there are a couple of things I just haven't heard anything about yet. They're not in any big rush, obviously.

**Chairperson Speranza:** If you could, let's talk as things come in because this was a good session and we want to keep the momentum going.

**Village Planner Witkowski:** Right. I went to the Affordable Housing Committee meeting - - Bruce and I both went to that last meeting -- and they're looking at the affordable housing policy. So that might be something, after the next affordable housing meeting.

**Boardmember Dale:** The next step was to give a draft to Marianne.

**Village Planner Witkowski:** Yes, that'll be the next step.

**Boardmember Dale:** It's amending an existing mission statement that's part of what they're based on, legally. So it would have to go to Board of Trustees for approval.

**Village Planner Witkowski:** Right. And there might be some recommendations for changes in the zoning. But I just wanted to at least make you aware of that.

**Boardmember Dale:** The Board of Trustees passed -- I don't know what it's called actually.

**Village Planner Witkowski:** That was the policy.

**Boardmember Dale:** It's a policy that established the Affordable Housing Committee and allowed it to incorporate, and gave it a mission. That document is what they're looking at updating, since it's over 10 years old at this point.

**Chairperson Speranza:** And everybody saw the notice in our packets about the Westchester Municipal Planning Federation workshops.

**Boardmember Alligood:** They always have one on the night of our meetings.

**Chairperson Speranza:** I know, they do.

**Boardmember Cameron:** But the one on the Tuesday night before our meeting, one of their seminars is on greening your code.

**Chairperson Speranza:** I think that's the one on the 16th.

**Boardmember Dale:** Is that the same one they did last year?

**Chairperson Speranza:** I don't know it may be the same session.

**Boardmember Cameron:** I'm going to go to it.

**Boardmember Logan:** I need a refresher, I think, actually.

**Boardmember Dandridge:** Now do we know actually who needs what credits? Is it assumed we all need to do this to keep our . . .

**Village Planner Witkowski:** Well, there's some that already have enough credits, and they do carry them over. I've got to go through the whole list, and I'll let you all know. But I know that you might even only be able to go to one of those. And I think in most cases you only need four a year.

**Chairperson Speranza:** If you could let us know. Ed, do you know what we're talking about?

**Boardmember Dandridge:** I do, and I was going to say it's very simple. I know for a fact that I have no credits.

**Chairperson Speranza:** That's what I wanted to make sure you knew.

**Boardmember Dandridge:** Oh, yes.

**Chairperson Speranza:** But you know about this requirement.

**Village Planner Witkowski:** Ed, I gave you the material on it, didn't I?

**Boardmember Dandridge:** You did, yes. When I first joined, you gave it to me and told me I had to get this.

**Village Planner Witkowski:** I thought I gave you the rules and how we're doing it. You only need four a year. You can carry them over from year to year. So Bruce, you did that six-hour. I've talked with a couple of different people in terms of the credit, and it's not like AICP continuing ed credits. It's like you sort of make a judgment as to whether it fits the parameters, and that one obviously did. And they have AIA. I talked to the woman that did the seminar. They have AIA credits, and then there was one other thing. So I figured as long as they were getting into things beyond just the building, which they were, then I figured you can just do the six hours. So I'm crediting that six hours for that one. And anybody who took like 5-1/2 hours, took all of the classes the year before, then you start out the year with 1-1/2 credits.

**Chairperson Speranza:** If you could just let us know where we stand.

**Village Planner Witkowski:** That's on my list of things to do.

**Chairperson Speranza:** That would be good. And actually, the classes are pretty easy to get. I mean, they're local and they're pretty interesting. There's a good cross-section of individuals and organizations and consultants that attend that.

**Village Planner Witkowski:** And the APA New York Web site has a lot of different things going on and some free things. I was even thinking about looking up the municipal arts society because they have a lot of stuff there that's not just applicable to New York City. So

I think I'll take a look and see and let you know because those are really pretty cheap. Even the Museum of the City of New York, I've been to some stuff there. That's like New York's best-kept secret, I think. I love that museum.

**Chairperson Speranza:** Anything else for tonight? Let's go home.

## **VI. Adjournment**

**On MOTION of Boardmember Wertz, SECONDED by Boardmember Cameron with a voice vote of all in favor, Chairperson Speranza adjourned the Regular Meeting at 10:00 p.m.**